O/Drugs/49

(K) 1949. **File No.** 5A/49

Legal Department—

G **BRANCH**

Subject:— Opinions on the Drugs Act, 1940

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Office of the R.L.A.

The question for consideration is whether the Inspectors appointed under section 21 of the Drugs Act, 1940 can- 1) make searches and 2) seal the stocks of drugs believed to be spurious.

Under section 22 of the Drugs Act, 1940 the Inspector has power to enter premises where any drug is being manufactured, sold, or stocked, inspect any promises where drugs are being manufactured, take samples of such drugs, and freeze or seize them if so authorised by the District Magistrate or the Chief Presidency Magistrate. Though the power of making a search is not specifically mentioned in the said section, clause (e) of that section under which the Inspector can exercise such other powers as may be necessary for carrying out the purposes of this chapter, is wide enough to include the power of search. The other powers regarding inspection, taking samples etc. cannot be exercised unless the premises are searched. The view taken by secretary Health and Local Government Department in this respect is correct.

As regards the power to seal the stocks believed to be spurious, clause (c) of section 22 provides that an order not to dispose of the stocks or to seize the stocks can only be made by the Inspector on being authorised by the District Magistrate or the Chief Presidency Magistrate, To seal the stock means not to allow its disposal and the Inspector has no power to do so unless so authorised by the District Magistrate or the Chief Presidency Magistrate. In view of this express provision in clause (c) of section 22, it cannot be argued that the Inspector has power to do so under his incidental powers under clause (e) of that section. Under

Rules 51 and 52 of the Drugs Rules 1945 made applicable to this Province under Rule 2 of the Bombay Drugs Rules 1946, duties of the Inspecters are prescribed but those rules also do not contain any provision under which the Inspecter can seal the stocks on his own.

Sd/- P.N.Lad,
Remembrancer of Legal Affairs.

U.R. to H. & L.G.D. No.G/653, dated 14.11.49.

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